

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

**KEITH JOSEPH**

**VERSUS**

**RDL ENERGY SERVICES, LP,  
HORIZON OFFSHORE  
CONTRACTORS, INC., HORIZON  
OFFSHORE, INC., SEAFARER BOAT  
CORPORATION AND WEATHERFORD  
SERVICES, INC.**

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**1:06-CV-0749**

**ANSWER TO PLAINTIFF'S ORIGINAL COMPLAINT**

**TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF TEXAS, GALVESTON DIVISION:**

**NOW INTO COURT**, through undersigned counsel, comes defendant, RDL Energy Services, LP, and for Answer to Plaintiff's Original Complaint, avers as follows:

**FIRST DEFENSE**

Pursuant to Rule 12(h)(i) and (ii) of the Federal Rules of Civil Procedure, RDL Energy Services, LP, files this Answer subject to and in preservation of the defenses available to it under Rule 12(b) of the Federal Rules of Civil Procedure including, but not limited to:

1. Lack of jurisdiction over the defendant;
2. Improper venue;
3. Insufficiency of process;

4. Insufficiency of Service of Process; and
5. Failure to state a claim or right upon which relief can be granted.

### **SECOND DEFENSE**

RDL Energy Services, LP files this, its Answer, subject to and in preservation of its rights to obtain a transfer of venue pursuant to 28 U.S.C. § 1404(a), and pursuant to any applicable forum selection clause.

### **THIRD DEFENSE**

The Complaint, and certain of the claims and allegations contained therein, fail to state a claim against defendant upon which relief can be granted.

### **FOURTH DEFENSE**

And now, in specific response to the plaintiff's Original Complaint, RDL Energy Services, LP avers as follows:

1.

The allegations contained in Paragraph 1 of Plaintiff's Original Complaint contain conclusions of law which require no answer. However, insofar as an answer may be deemed required, they are denied.

2.

The allegations contained in Paragraph 2 of Plaintiff's Original Complaint contain conclusions of law which require no answer. However, insofar as an answer may be deemed required, they are denied.

3.

The allegations contained in Paragraph 3 of Plaintiff's Original Complaint are denied for lack of sufficient information to justify a belief.

4.

It is admitted that RDL Energy Services, LP is a business entity doing business in the state of Louisiana. Except as specifically admitted, the allegations of Paragraph 4 of Plaintiff's Original Complaint are denied for lack of sufficient information to justify a belief.

5.

The allegations contained in Paragraph 5 of Plaintiff's Original Complaint are denied for lack of sufficient information to justify a belief.

6.

The allegations contained in Paragraph 6 of Plaintiff's Original Complaint are denied for lack of sufficient information to justify a belief.

7.

The allegations contained in Paragraph 7 of Plaintiff's Original Complaint are denied for lack of sufficient information to justify a belief.

8.

The allegations contained in Paragraph 8 of Plaintiff's Original Complaint are denied for lack of sufficient information to justify a belief.

9.

The allegations contained in Paragraph 9 of Plaintiff's Original Complaint are denied for lack of sufficient information to justify a belief.

10.

It is admitted that plaintiff was employed by RDL Energy Services, LP. Except as specifically admitted, the allegations contained in Paragraph 10 of Plaintiff's Original Complaint are denied for lack of sufficient information to justify a belief.

11.

The allegations contained in Paragraph 11 of Plaintiff's Original Complaint are denied.

12.

The allegations contained in Paragraph 12 of Plaintiff's Original Complaint, insofar as they pertain to defendant answering herein, are denied.

13.

The allegations contained in Paragraph 13 of Plaintiff's Original Complaint, insofar as they pertain to defendant answering herein, are denied.

14.

The allegations contained in Paragraph 14 of Plaintiff's Original Complaint do not pertain to defendant answering herein, and therefore do not require answer. However, insofar as an answer may be deemed required, they are denied.

15.

The allegations contained in Paragraph 15 of Plaintiff's Original Complaint are denied.

16.

The allegations contained in Paragraph 16 of Plaintiff's Original Complaint are denied.

17.

The allegations contained in Paragraph 17 of Plaintiff's Original Complaint are denied. It is specifically denied that plaintiff was a seaman and a member of the crew of the TEXAS HORIZON.

#### **FIFTH DEFENSE**

In further answering, RDL Energy Services, LP shows that the incident at issue was caused and resulted from the sole or comparative negligence of the plaintiff, and that such negligence was the proximate cause, in whole or in part of the incident, and recovery by plaintiff herein is barred or reduced by the fault or negligence of the plaintiff.

Defendant avers that the damages alleged by plaintiff, if any exist, which is specifically denied, were caused solely by the fault and negligence of others for whom this defendant has no responsibility, all of which precludes and bars plaintiff's recovery against this defendant.

#### **SIXTH DEFENSE**

Further answering, defendant shows that the incident herein was the result of an unavoidable accident, an act of God, or an act of deliberate indiscretion.

#### **SEVENTH DEFENSE**

Further answering, defendant would show that if plaintiff was injured as alleged, which is specifically denied, that such injury was caused by an open and obvious condition and, therefore, plaintiff is responsible for his own injury, if any.

#### **EIGHTH DEFENSE**

Further answering, defendant would show that the injuries about which plaintiff complains are in no way connected to the incident made the basis of this lawsuit.

Alternatively, if such injuries occurred, such were caused by or resulted from a prior injury, pre-existing condition or another event, thus barring or mitigating plaintiff's recovery herein.

#### **NINTH DEFENSE**

Defendant shows, without waiving the above and foregoing, and further answering, that the plaintiff's damages arose as a result of a pre-existing and/or subsequent developed physical and/or mental condition which was neither caused by nor aggravated by any act or omission by defendant thus barring or mitigating a recovery by the plaintiff herein.

#### **TENTH DEFENSE**

Defendant denies that the RDL Energy Services, LP was a vessel and that plaintiff was a seaman. Accordingly, defendant shows that plaintiff has no claim against defendant as his employer, plaintiff's exclusive remedy being in workman's compensation.

**WHEREFORE**, the premises considered, defendant, RDL Energy Services, LP, prays that Plaintiff's Original Complaint be dismissed at his costs, and that defendant should have all other and further relief, at law and in equity, to which defendant may be justly entitled.

/s/ Edward S. Johnson

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that service of the foregoing was on this date automatically accomplished on all known Filing Users through the Notice of Electronic Filing. Service on any party or counsel who is not a Filing User was accomplished via Email, Facsimile, or U.S. First Class Mail, in accordance with the Federal Rules of Civil Procedure on this 5<sup>th</sup> day of January, 2007.

/s/ Edward S. Johnson